



MEMORANDUM

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Agenda Item No. 1 (E) 6

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: March 11, 2004

SUBJECT: Report regarding
nonconsent towing

FROM: George M. Burgess
County Manager

This report was prepared at the request of the Transportation Committee to address issues raised in a February 11, 2004, NBC6 broadcast that dealt with consumer abuses in the nonconsent towing business. It also provides an update on the County's towing licensing and regulatory program and complaints received by the Consumer Services Department (CSD).

The Board approved an ordinance on July 22, 2003, that reinstated the towing licensing and regulatory program for both consent and nonconsent towers. The deadline for towers to submit an application to CSD was November 22, 2003. A notice and application form were mailed in September 2003, and again in November 2003, to each business issued an occupational license for towing.

As of February 20, 2004, 434 towing license applications had been received. Of those, 205 licenses had been issued, 121 applications were in process, 105 applications had remained incomplete for more than 60 days and were considered abandoned, and three applications had been denied due to disqualifying felony convictions. CSD has commenced enforcement action against towers whose applications have been abandoned and towers who hold occupational licenses but have not complied with the Towing Ordinance, despite warnings.

The NBC6 broadcast focused on the business practices of several nonconsent towers. In that report, certain towers were observed towing vehicles from shopping center parking lots in apparent violation of the County's ordinance. The Towing Ordinance establishes requirements for nonconsent tows that are performed on private property. Among the requirements intended to protect consumers are the following:

- Towers must enter into a written contract with every owner of private property that authorizes the tower to remove vehicles from the property
- Tow-away-zone signs containing a specified notice must be prominently placed at each entrance to the property
- The property owner or an authorized representative must provide express instruction to have a specific improperly parked vehicle towed from the property and must sign and date the instruction in the presence of the person who will tow the vehicle
- Towers cannot pay or rebate money to obtain the privilege of rendering service
- If the vehicle owner arrives at the scene prior to the removal of the vehicle and the vehicle has been completely prepared for transport, the fee for

removal of the vehicle from the tow truck at the scene is one-half the approved rate

- Storage sites must be located within a ten mile radius of the location from which the vehicle was towed, must be open for vehicle retrieval from at least 8:00 a.m. to 6:00 p.m., Monday through Friday, and must be opened during all other times within one hour of a call for vehicle retrieval
- Nonconsent towers must accept at least two of three methods of payment: 1) cash, money order and traveler's check, 2) bank credit card, or 3) a personal check showing the name and address of the vehicle owner or authorized representative on its face
- Any person who improperly causes a vehicle to be towed is liable to the vehicle owner for the costs of services provided, any damage resulting from the tow and attorney's fees

During 2003, CSD received 125 towing related complaints, the majority of which involved nonconsent tows. The most frequent types of nonconsent tow complaints include:

- Tow-away-zone signs were not posted or were not conspicuous
- Property owner or agent did not authorize tow in writing
- Vehicle was properly parked on private property when towed
- Vehicle owner was charged full amount for tow even though vehicle was released at scene
- Only one method of payment was accepted
- No receipt was provided upon pick-up of vehicle
- Towing and/or storage charges were excessive
- Vehicle was damaged as a result of being towed

Based on the complaints received and follow-up investigation by CSD staff, it appears that most nonconsent tows do involve vehicles that are illegally parked. In many cases, vehicle owners either did not see properly placed tow-away-signs or took a chance at being improperly parked, sometimes for only a few minutes, only to find that their cars had been towed away. As shown in the NBC 6 news report, a vehicle can be towed away in less than a minute.

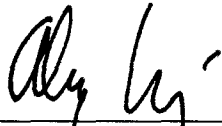
Complaints filed by vehicle owners regarding the absence of tow-away-zone signs and overcharges for towing and storage are usually resolved by CSD staff in favor of the consumer.

The NBC 6 news report demonstrated how illegal nonconsent tows do occur despite the safeguards contained in the Towing Ordinance. In that report, a tower was shown removing a vehicle from a private retail parking lot, apparently without securing express instruction to tow the vehicle signed and dated by either the property owner or an authorized agent. Without obtaining written authority to tow vehicles, towers can haul vehicles away at their own discretion for profit. These towers know that most vehicle owners are not likely to complain and are willing to pay whatever amount is required to get their vehicles back. Reports like the one done by NBC6, a recently produced CSD public service announcement that is airing on MDTV and Cable TAP, and other outreach efforts help to inform vehicle owners of the ability to file a complaint against a tower if warranted.

Upon receipt of a complaint from a vehicle owner that his or her vehicle was improperly towed from private property, CSD determines if the property owner or an authorized agent provided express written authorization to the tower. If warranted, CSD will inspect the tower's records in order to verify compliance with the Towing Ordinance. Nonconsent towers are required to maintain records of all financial and operating information including trip records, invoices, and statements and records of payments for services rendered for a minimum of three (3) years.

Towers who engage in activities found to be in violation of the Towing Ordinance may have their towing licenses suspended or revoked by CSD and may be subject to other civil and criminal penalties. CSD recently filed suit against and entered into a Joint Stipulation with Kendall Towing, Inc., a towing company that was featured in the NBC6 news report. Under the Joint Stipulation, Kendall Towing agreed to pay a \$12,600 civil penalty, comply with all the requirements of the Towing Ordinance, reimburse any consumer who registers a valid complaint with CSD within one year relating to matters addressed in the Joint Stipulation, and cease and desist from performing nonconsent tows for a period of one year. The owner of Kendall Towing is also facing criminal charges related to his towing business. The outcome of the criminal proceedings could impact Kendall Towing's eligibility to maintain a towing license in the future.

In addition to the efforts of CSD, the auto theft task force established by the Miami-Dade Police Department (MDPD) is targeting illegal towing. CSD and MDPD staffs are currently exploring ways in which the two agencies can assist each other in enforcing the Towing Ordinance and reducing illegal towing.



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